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Paper No. 15

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MAILED

SEP 15 2004

Technology Center 2100

In re Application of: Chaganty et al.
Application No. 09/540,238
Attorney Docket No. M-8403 US
Filed: April 1, 2000
For: FIREWALL POOLING

)
) **DECISION ON PETITION TO**
) **WITHDRAW HOLDING OF**
) **ABANDONMENT UNDER 37 CFR**
) **§1.181**
)

This is a decision on the petition, filed on June 18, 2004 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. This application was held abandoned for failure to respond to the final Office action mailed December 8, 2003 (Paper No. 11). A Notice of Abandonment was mailed on June 16, 2004 (Paper No. 13).

The practitioner has provided a statement that the Office action was not received and a copy of the Avaya docket record for the case to prove nonreceipt of the Office communications. A review of the application file shows the Office action was mailed December 8, 2003 (which appears to have been a re-mail of the action originally sent on November 12, 2003). There are two envelopes in the file jacket that indicate the final rejection was returned to the USPTO on two separate occasions. Also, a review of the address change submitted September 2, 2003 shows the Office inadvertently introduced errors in the address used for mailing of the action of December 8, 2003. There is no evidence the Office followed the procedures *en total* set forth in MPEP §707.13 regarding returned Office actions of using "every reasonable means to ascertain the correct address and forward the action again".

The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center support staff. The final Office action will be remailed with the three-month shortened statutory period for reply restarted to run from the date of the remailing.

Josie A. Ballato
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